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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,077	06/15/2006	Robert Spindler	AT03 0072 US1	8828
65913	7590	02/11/2011		
NXP, B.V. NXP INTELLECTUAL PROPERTY & LICENSING M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			EXAMINER GARCIA, SANTIAGO	
			ART UNIT 2611	PAPER NUMBER
			NOTIFICATION DATE 02/11/2011	DELIVERY MODE ELECTRONIC

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NXP INTELLECTUAL PROPERTY & LICENSING
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SAN JOSE CA 95131

In re Application of:
SPINDLER et al
Application Serial No.: 10/583,077
Filed: June 15, 2006
For: **SYNCHRONIZATION DURING ANTI-COLLISION**

DECISION
ON PETITION

This is a decision on the petition filed January 3, 2011 under 37 CFR § 1.181, requesting the Director to invoke his supervisory authority and withdraw the finality of the final Office action mailed November 3, 2010.

REGULATIONS AND PRACTICE

37 CFR § 1.113(a) states in part that:

(a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's or patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191) or to amendment as specified in § 1.116. ...

MPEP § 706.07(a) states in part that:

Under present practice, second or any subsequent action on the merits shall be final, except where the examiner introduces a new ground of rejection that is (not) necessitated by applicant's amendment of the claims...

MPEP 1207.03 III states in part that:

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See *In re Kronig*, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976).

OPINION

Petitioner contends "that the final Office Action dated November 3, 2010, contains new grounds of rejection" and "Specifically, the current Office Action presents, for the first time, assertions by the Examiner that the interrogation signal 20 of the '099 reference corresponds to the claimed confirm command and that the '099 reference also teaches a different integration signal including a short repeat message that corresponds to the claimed repeat command not containing synchronization information". Accordingly, "Applicant has not had an adequate opportunity to consider, address and/or rebut these assertions."

A review of the record finds that the grounds of rejection was not changed by the examiner from the non-final Office action mailed July 21, 2010 and the subsequent final rejection mailed November 3, 2010. Furthermore, the precise reasons for the rejections identified in the non-final rejection are identical to the reasons given in the final rejection. Accordingly, no new ground of rejection was presented in the final rejection mailed November 3, 2010. Applicant had an adequate opportunity to consider, address and/or rebut these assertions.

CONCLUSION

For the above stated reason, the petition to withdraw the finality of the Final Office action mailed January 3, 2011 is **DENIED**.

The Notice of Appeal was filed on February 3, 2011. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).



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